



Republic of the Philippines
DEPARTMENT OF ENERGY

DEPARTMENT CIRCULAR NO. DC 2020-09-0018^{7N}

**GUIDELINES IN THE ADMINISTRATION, CLASSIFICATION AND CERTIFICATION
OF ENERGY SERVICE COMPANY (ESCO)**

WHEREAS, Section 2 of Republic Act No. 7638 or the "Department of Energy (DOE) Act of 1992" states that it is the policy of the State to ensure a continuous, adequate, reliable, and economic supply of energy through, among others, judicious conservation, renewal, and efficient utilization of energy, to keep pace with the country's growth and economic development;

WHEREAS, Department Circular No. DC2008-09-0004 or the "Accreditation of ESCOs and Energy Service Providers" requires all ESCOs to secure accreditation and submit reports to the DOE on projects, and Department Order No. DO2019-07-0013 or "Constituting the Committee on the Accreditation of ESCOs" facilitates the processing and accreditation of ESCOs are now repealed by Republic Act No. 11285 or the "Energy Efficiency and Conservation Act" (EEC Act) and Department Circular No. DC2019-11-0014 or the Implementing Rules and Regulations of the EEC Act (EEC IRR);

WHEREAS, Section 5 of EEC Act provides that the DOE shall be the lead agency and responsible for the planning, formulation, development, implementation, enforcement, and monitoring of energy management policies and other related energy efficiency and conservation plans and programs;

WHEREAS, Section 13 of EEC Act mandates the DOE to strengthen the existing ESCO certification system to develop this service sector and to provide the market with a source of technically and financially capable entities that can assist in the delivery of energy efficiency-related projects;

WHEREAS, Section 53 of EEC IRR directs the DOE to develop guidelines for ESCOs which shall include among others, certification requirements, review and evaluation process, and the classification of ESCOs, and states that ESCOs applying for certification must demonstrate their technical and managerial competence to design and implement energy efficiency projects, including energy audits, design engineering, providing or arranging project financing, construction management, operations and maintenance of energy efficient technologies, and verifying energy savings;

WHEREAS, a Call of Comments on the draft "Guidelines for the Administration, Classification and Certification of Energy Service Company (ESCO)" was posted in the DOE Website on 21 April 2020 and comments were received until the conduct of the Virtual Public Consultations; and

WHEREAS, the DOE conducted Virtual Public Consultation attended by various stakeholders on 29 May and 09 July 2020 on the draft "Guidelines for the Administration, Classification and Certification of ESCO".

NOW THEREFORE, for and in consideration of the foregoing premises, the DOE hereby issues the following:

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Section 1. Title. This Department Circular shall be known as the "Guidelines in the Administration, Classification and Certification of ESCOs."

Section 2. Scope. This Department Circular shall establish the guidelines, rules and procedures in the administration, classification and certification for ESCOs with the goal of enhancing professionalism, credibility and quality of services.

Section 3. Definition of Terms. As used in this Department Circular, the following terms shall be understood to mean:

- 3.1 "Energy Audit" refers to the evaluation of energy consumption and review of current energy cost to determine appropriate intervention measures and efficiency projects in which energy can be judiciously and efficiently used to achieve savings;
- 3.2 "Energy Conservation" refers to the reduction of losses or wastage in various energy stages from energy production to energy consumption through the adoption of appropriate measures which may, among others be, technologically feasible, economically sound, environmentally-friendly, or socially affordable;
- 3.3 "Energy Efficiency" refers to the way of managing or restraining the growth in energy consumption resulting in the delivery of more services for the same energy input or the same services for less energy input;
- 3.4 "Energy Efficiency Projects" refer to projects designed to reduce energy consumption or costs by any improvement, repair, alteration, or betterment of any building or facility, or any equipment, fixture, or furnishing to be added to or used in any building, facility, or vehicle including manufacturing and provision of services related thereto;
- 3.5 "Energy Management" refers to the process of designing and/or implementing an optimal program of purchasing, generating, and consuming various types of energy based on the end user's overall short-term and long-term management program, with due consideration of factors including costs, availability, economics, and environmental impact;
- 3.6 "Energy Savings" refers to the result in the reduction of energy consumption and/or costs to produce the same output, and/or to increase the productivity with the same energy consumption;
- 3.7 "Energy Savings Performance Contract (ESPC)" is an agreement between an ESCO and an Energy User, where the ESCO performs all energy efficiency services and receives periodic payments, based on a guaranteed energy savings performance;
- 3.8 "Energy Service Company (ESCO)" refers to a juridical entity that offers multi-technology services and goods towards developing and designing energy efficiency projects, delivering and guaranteeing energy savings, and ensuring cost-effective and optimal performance. Their services include energy supply and management, energy financing, technical engineering expertise and consultancy, equipment supply, installation, operation, maintenance and upgrade, and monitoring and verification of performance and savings. Their

goods include lighting, motors, drives, heating, ventilation, air conditioning systems, building envelope improvements, and waste heat recovery, cooling, heating, or other usable forms of energy control systems;

- 3.9 "Investment Grade Energy Audit" refers to a more detailed Energy Audit containing one or more specific Energy Savings measures ready for implementation with estimated capital costs and Energy Savings supported by facility measurements, detailed calculations, assumptions, and measurement and verification plan for transparent understanding by the facility owner; and
- 3.10 "Measurement and Verification (M&V)" refers to the process of measuring the Energy Savings realized from an Energy Efficiency Project by means of comparing the amount of energy used before and after the commissioning of an Energy Efficiency Project.

Section 4. Classification of ESCO. Businesses seeking to be classified as an ESCO, whether fully Filipino-owned or up to fully foreign-owned, must be duly registered with the Securities and Exchange Commission or the Department of Trade and Industry or licensed as a branch office by the Securities and Exchange Commission, in compliance with the applicable laws of the Philippines, including Republic Act No. 11232 or the Revised Corporation Code and Republic Act No. 7042 or the "Foreign Investments Act".

To contribute towards the pursuit of Energy Efficiency Projects and attainment of the goals under the National Energy Efficiency and Conservation Plan, the following ESCO classification is hereby introduced:

- 4.1 Registered ESCO refers to an ESCO seeking accreditation for professional services to DOE for the first time that meets the minimum requirements on legal and technical capacity. The validity of the Certificate for Registered ESCO shall be for three (3) years.
- 4.2 Certified ESCO refers to an ESCO which in addition to meeting the requirements of a Registered ESCO also has proven performance or results-based projects savings experience and with proven customer experiences. The validity of the Certificate of Certified ESCO shall be valid for five (5) years.

Section 5. Application Requirements. The submission of the corresponding requirements will be required for the issuance of the certificate for the ESCO classifications provided under Section 4 of this Department Circular.

- 5.1 Registered ESCOs. Applicants for Certificate of Registered ESCO shall submit the following:
 - a. Duly accomplished ESCO Application Assurances Form (Annex A)
 - b. Certified True Copies of the Documents on Corporate Personality
 - c. For sole proprietorship entity, the following documents are required:
 - i. Business registration
 - ii. Business permits
 - d. For corporate, partnership and joint venture entities, the following documents are required:

- i. Business registration
 - ii. Business permits
 - iii. SEC registration
 - iv. Articles of incorporation
 - e. Company Profile/Background (Annex B)
 - f. Company Ownership/Management which includes list of names of officers, personnel and their position in the company including energy auditors, and the organizational structure (Annex C)
 - g. List of Energy Audit equipment and other similar testing instruments including the date of its last calibration (Annex D)
 - h. Proof of payment of the Application Fee of Fifteen Thousand Pesos (₱15,000.00) for Certificate of Registered ESCO
- 5.2 Certified ESCOs. In addition to the requirements under Section 5.1 of this Department Circular, the applicants for Certificate of Certified ESCO shall submit the following:
- a. List of Energy Efficiency Projects undertaken in the last three (3) years (Annex E)
 - b. Audited financial statement in the last two (2) years
 - c. Proof of Payment of the Application Fee of Thirty Thousand Pesos (₱30,000.00) for Certificate of Certified ESCOs.
- 5.3 Applications shall be filed with the DOE Records Management Division which shall in turn forward them to the Energy Utilization Management Bureau (EUMB)-Office of the Director within one (1) working day from receipt.
- 5.4 Applications will be returned to applicants when the application form has not been properly filled out and/or there are missing annexes without prejudice to reapplication.
- 5.5 EUMB – Office of the Director will forward all received applications to the Energy Efficiency and Conservation Technology Promotion and Program Management Division (EPMPD) which will conduct the technical evaluation and facilitate the financial evaluation of the Financial Services - Power Compliance Division (FS-PCD) and legal evaluation of the Legal Services - General Legal Services Division (LS-GLSD).
- 5.6 A copy of the flowchart showing the application processes for both Registered and Certified ESCO is attached as Annex F.
- 5.7 When practicable, the submission of the application requirements through electronic means may be permitted upon the issuance of EUMB of the guidelines under Section 11 of this Department Circular.

Section 6. Constituting the ESCO Evaluation Committee. To facilitate the processing of applications under this Department Circular, an ESCO Evaluation Committee is constituted and shall be composed of the following DOE offices:

Assistant Director, EUMB	Chairperson
Division Chief, LS-GLSD	Member

Division Chief, FS-PCD	Member
Division Chief, EUMB-EPMPD	Member

Section 7. Processing of Certificate of Registered ESCOs. For the issuance of Certificate of Registered ESCO, the following are the evaluation criteria and process:

- 7.1 Criteria. The criteria for evaluating an ESCO's application for the issuance of a Certificate of Registered ESCO shall be based on the completeness of its documents submitted according to Section 5.1 of this Department Circular and the Checklist (Annex G).
- 7.2 Process. The evaluation process shall involve the verification of the legality and completeness of the ESCO's submitted documents and shall be conducted simultaneously and must be completed within seven (7) working days from receipt of documents. Should there be a need for clarification on the submitted documents, the same must be relayed to the applicant in writing within the same period. The evaluation process period is stayed until the applicant's compliance with the written letter.

Section 8. Processing of Certificate of Certified ESCOs. For the issuance of Certificate of Certified ESCO, the following are the evaluation criteria and process:

- 8.1 Criteria. The criteria for evaluating an ESCO's application for the issuance of a Certificate of Certified ESCO shall be based on the following requirements:
 - i. Technical and Managerial Capabilities
 - ii. Performance-based Project Experience
 - iii. Project Savings Results
 - iv. Customer References
 - v. Financial capacity according to the documents submitted in Section 5.1 of this Department Circular and the Checklist (Annex G)
- a. The criteria for evaluating the completed ESCO projects will be based on the performance of the Energy Efficiency Project and accuracy of submitted data to include but not be limited to the level of achieved savings versus reported and targeted, customer satisfaction, delays in implementation, M&V plan, etc.
- b. The criteria for evaluating an ESCO's financial capacity shall be based on the submitted Financial Statements in the last two (2) years with regard to the reasonableness of various items to include but not be limited to the following financial parameters:
 - 1. Net Worth
 - 2. Working Capital = Current Assets – Current Liabilities
 - 3. Debt-to-Equity Ratio
 - 4. Current Ratio
 - 5. Quick Ratio
 - 6. Profitability
 - 7. Cash Flow

- c. In addition, the applicant must have completed a minimum of three (3) Investment Grade Energy Audits and a minimum of three (3) projects implemented within the past three (3) years.

- 8.2 Process. The technical evaluation process entails detailed review of the technical documents comprises of projects undertaken, data and other pertinent information therein, conduct of interviews with customers and the ESCO and must be completed within twenty (20) working days from receipt of all required documents. Should there be a need for clarification on the submitted documents, the same must be relayed to the applicant in writing within the same period. The evaluation process period is stayed until the applicant's compliance with the written letter.

Section 9. Issuance of Certificate of Registered ESCO. EPMPD shall prepare an endorsement memorandum for the issuance of the certificate of Registered ESCO addressed to the EUMB Director. The endorsement memorandum shall be supported by the recommendation arising from the technical and legal evaluation. The EUMB Director shall have two (2) working days to act on the endorsement memorandum and issue the Certificate of Registered ESCO. EUMB shall provide a report on the Certificates of Registered ESCOs issued every quarter to the DOE Secretary.

Section 10. Issuance of Certificate of Certified ESCO. EPMPD shall prepare an endorsement memorandum for the issuance of the certificate of Certified ESCO through the EUMB Director for consideration of the DOE Secretary. The endorsement memorandum shall be supported by the recommendation arising from the technical, financial and legal evaluation.

Section 11. Obligations under the ESCO Certificate. All ESCOs are required to comply with the following obligations:

- 11.1 Submit an annual report of their projects whether on-going or completed in the form prescribed by EUMB no later than 30 April of every year;
- 11.2 Provide support for coordination and monitoring by the EUMB for projects undertaken. The value of such support shall in no case exceed the application fee indicated in Section 5 of this Department Circular per annum;
- 11.3 Subject themselves and their projects to Independent Verification; and
- 11.4 Such other requirements as may be required by the DOE for the attainment of the objectives of the EEC Act and EEC IRR.

The DOE, through EUMB, shall issue guidelines for the effective administration of the obligations of ESCOs including the procedure for the monitoring, verification and enforcement: *Provided*, That the guidelines shall only be issued after public consultation: *Provided further*, That the effectivity and timelines of any issued guidelines will be mutually agreed upon by the DOE and ESCOs.

Section 12. Administration of Certificates of Registered and Certified ESCOs. EUMB shall maintain and publish the registry of all issued Certificates of Registered and Certified ESCOs. The registry shall contain such pertinent information on the ESCO and its projects so as to apprise and guide the general public on their services.

Section 13. Prohibited Acts. Pursuant to Section 30 of the EEC Act, ESCOs or their responsible officers shall be subject to penalties provided under Section 14 of this Department Circular for:

- 13.1 Failing to comply with the obligations under Section 11 of this Department Circular;
- 13.2 Failing to provide accurate, information or the provision of false or misleading energy information as required under this Department Circular; and
- 13.3 Failing to comply with issued orders of the DOE.

Section 14. Fines and Penalties. The DOE may consider the following measures prior to the imposition of fines, penalties and administrative liabilities for the responsible officers of ESCOs:

- 14.1 Require an explanation supported by reports, returns and other documents to rebut the alleged commission of the prohibited act.
- 14.2 In cases where an explanation has been issued but the DOE finds a violation because of materially insufficient reports, false returns, non-submission of required documents, provide a recommendation to the said person or entity.
- 14.3 Disclose the name of the person or entity after it has received a recommendation and comply with such recommendation.
- 14.4 Issue an order in cases where the said person or entity fails to follow or comply with the recommendation of the DOE. The failure on the part of the person or entity to comply with the order shall be a valid ground for the imposition of the administrative fines and penalties in accordance with Schedule of Penalties and Fines (Annex H).
- 14.5 In cases of association, partnership or corporation, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, director, or officer responsible for the violation.
- 14.6 After due process, the certificate issued to the Registered or Certified ESCO may be revoked with the blacklisting of the responsible officers of said ESCO for future application.

Section 15. Criminal Liability. Pursuant to Section 30 of the EEC Act, notwithstanding the fines and penalties provided under Section 14 of this Department Circular, the responsible officers and employees of any ESCO who willfully commits any of the prohibited acts shall upon conviction, suffer the penalty of one (1) year to five (5) years imprisonment or a fine ranging from a minimum of One hundred thousand pesos (P100,000.00) to One hundred million pesos (P100,000,000.00) or twice the amount of costs avoided for non-compliance, whichever is higher, or both, upon the discretion of the court.

Any person who willfully aids or abets the commission of the prohibited acts under Section 13 of this Department Circular or who causes the commission of such acts by another, shall be liable in the same manner as the principal.

In cases of association, partnership or corporation, the penalty shall be imposed on the partner, president, chief operating officer, chief executive officer, director, or officer responsible for the violation.

Section 16. Transitory Clause. All pending applications at the time of the effectivity of this Department Circular shall be governed by the same. All existing ESCO Certificate of Accreditation shall remain valid until the expiration indicated with the additional obligation to comply with the obligations indicated in Section 11 of this Department Circular.

Section 17. Information, Education and Communication Activities. Pursuant to Section 85 of the EEC IRR, the DOE shall develop and undertake a national awareness and advocacy program covering energy efficiency and conservation and pursue partnerships with relevant stakeholders for the appreciation of this Department Circular.

Section 18. Repealing Clause. The provisions of other circulars, orders, issuances, rules and regulations, which are inconsistent with the provisions of this Department Circular are hereby repealed, amended, modified or superseded accordingly.

Section 19. Separability Clause. If for any reason, any section or provision of this Department Circular is declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

Section 20. Effectivity. This Department Circular shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation. A copy of this Department Circular shall be filed with the University of the Philippines Law Center - Office of the National Administrative Register.

Issued at Energy Center, Bonifacio Global City, Taguig City.


ALFONSO G. CUSI
Secretary



Republic of the Philippines
DEPARTMENT OF ENERGY
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